

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

GERARD WIENER, individually,
and as personal representative
of the estate of ROLAND WIENER,

Plaintiffs,

v.

Case No. 11-CV-10770
HON. GEORGE CARAM STEEH

BANKERS TRUST COMPANY,
a foreign company, GMAC
MORTGAGE, LLC, a Delaware
corporation, FEDERAL HOME LOAN
MORTGAGE CORPORATION, a foreign
corporation, JEFFREY BASKIN,
an individual, and LAUREN NEWMAN,
an individual,

Defendants,

AND

JEFFREY BASKIN, an individual,
and LAUREN NEWMAN, an individual,

Defendants/Counter-Plaintiffs,

v.

GERARD WIENER, individually,
and as personal representative
of the estate of ROLAND WIENER,

Plaintiff/Counter-Defendant,

and

FEDERAL HOME LOAN
MORTGAGE CORPORATION,
a foreign corporation,

Defendant/Cross-Defendant.

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ORDER DENYING MOTION FOR
SUMMARY JUDGMENT (#22) AS MOOT

On June 22, 2010, plaintiffs filed a complaint in Oakland County Circuit Court asserting various claims relating to the foreclosure of Roland Weiner's property and seeking to have the foreclosure sale set aside. On November 24, 2010, plaintiffs filed a first amended complaint and Federal Home Loan Mortgage Corporation was added as a defendant. On February 24, 2011, the case was removed to this court. On August 4, 2011, plaintiffs filed a motion seeking leave to file a second amended complaint. After the response deadline passed and no response was filed, on October 13, 2011, the court granted plaintiffs' motion. A second amended complaint was filed on October 18, 2011. On November 7, 2011, a stipulated order was entered allowing plaintiffs to file a third amended complaint. On November 8, 2011, plaintiffs filed the third amended complaint.

On August 30, 2011, after plaintiffs had requested leave to file the second amended complaint but before the court granted the request, defendants Bankers Trust Company and GMAC Mortgage, LLC filed a motion for summary judgment. Because the motion for summary judgment is directed at a complaint that is no longer in existence, the motion for summary judgment is DENIED as moot. The motion is denied without prejudice to defendants' ability to file an appropriate motion directed at the third amended complaint.

SO ORDERED.

Dated: January 9, 2012

s/George Caram Steeh
GEORGE CARAM STEEH
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

Copies of this Order were served upon attorneys of record on
January 9, 2012, by electronic and/or ordinary mail.

s/Marcia Beauchemin
Deputy Clerk